

COHEN & GREEN

October 27, 2023

Hon. Ona T. Wang
United States District Court, Southern District of New York
Daniel Patrick Moynihan Courthouse, 500 Pearl Street
New York, New York 10007

By Electronic Filing.

Re: Case No. 22-cv-01445, Rodney v City of New York, et al.

Dear Judge Wang:

As the Court likely recalls, my firm, with co-counsel, represents Plaintiff in the case above. As directed by the Court (Dkt. No. 43), I write jointly with counsel for Defendants to provide a monthly status report.

Much of the development since the last status report has been covered in various filings. Since the last joint letter:

- Defendants have not served their updated responses as promised in ECF No. 129 at 2.
- Defendants have not served any verified interrogatories. Plaintiff intends to raise a potential motion under Rule 26(g)(2) — which requires that the “[C]ourt *must* strike” any “unsigned” interrogatory (since no “signature [was] promptly supplied after the omission [wa]s called to the attorney's or party's attention” (emphasis added)) — at the coming conference.
- Defendants have not raised any objections to the proposed 160.50 Order at ECF No. 129-2.

The parties look forward to discussing these and related issues at the upcoming conference.

Relatedly, and unfortunately, the case is coming up on the statute of limitations with another John Doe issue left to resolve. As dealt with at the conference in May, the operative amended complaint names all but one of the Does. As discussed on the record in May, the plan was initially to amend the complaint without mooted the motion to dismiss. However, a different path ultimately followed. As it stands, the person named in the Complaint as John or Jane Doe 10 (*see* ECF No. 90, ¶ 20) is not yet identified. Plaintiff would appreciate the Court's guidance in how to proceed, without causing issues with the motion to dismiss again.

Next, as far as settlement is concerned, as noted in a number of previous letters, the Court held a preliminary, confidential settlement discussion on November 3, 2022, and Plaintiff served a formal demand that evening. Nothing further has taken place in the last year.



Finally, as far as the motion to dismiss, the motion is fully briefed, and Plaintiff has requested oral argument — with a request to allow a recent law graduate (who is not yet admitted) to argue a major portion of the motion — as noted in ECF No. 125. Additionally, the Hon. Jessica G. L. Clarke recently held a preliminary injunction hearing in the case *Reyes v. City of New York*, 23-cv-6369 (SDNY). The preliminary injunction sought there implicates the same “No Recording” policy at issue in the motion to dismiss here — and Mr. Reyes and the City made similar arguments on the City and State Right to Record Acts / City Administrative Procedure Act to those at issue here. Judge Clarke stated she was attempting to finish a decision as soon as possible, so the parties here intend to file a notice of supplemental authority if that decision issues before the Court resolves the motion to dismiss, since the reasoning there will likely support one or the other side here.

As always, we thank the Court for its time and consideration.

Respectfully submitted,

/s/

J. Remy Green

Honorific/ Pronouns: Mx., they/ their/ them

COHEN&GREEN P.L.L.C.

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cc:

All relevant parties by electronic filing.